

STATE OF SOUTH CAROLINA

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COURT OF APPEALS

SEP 07 2023

SC Court of Appeals

Appeal from Horry County
Larry B. Hymaw Jr., Circuit Court Judge
Appellate Case No. 2020-001497

The State,

Respondent.

v.

Theodore J. Bolick,

Appellant

MOTION TO EXPEDITE ADJUDICATION
TO PREVENT FURTHER INJUSTICE

Appellant, Theodore J. Bolick in an abundance of caution, and because the Amended Record on Appeal plainly demonstrate quite clearly Appellant's allegations of judicial and prosecutorial misconduct are factual and revoltingly shocking to the conscience, the Appellant hereby respectfully moves this Honorable Court to expedite the

the adjudication of this to prevent further injustice, and to deter both judges and prosecutors from seeking to circumvent the laws and constitution of this state in an effort to fulfill perverse agendas. In support of this motion Appellant shows as follows.

HISTORY OF THE CASE

This case has a relatively long history. Appellate originally gave notice of appeal in November of 2020. Afterwards Circuit Court Judge Steven John notified this Honorable Court that the circuit court judge who sentenced the Appellant had abused his discretion and refused to consider Appellant's timely and lawfully filed Motion For Mistrial and Motion For New Trial.

This Honorable Court acting sua sponte immediately requested both the Respondent and the Appellant to file "Memorandums" on the issue of the outstanding motions.

In response, Senior Assistant Deputy Attorney General, William M. Blich Jr. on behalf of Respondent submitted a Memorandum in which he conceded it would be appropriate for this Honorable court to remand the case back to the circuit court for consideration of the outstanding motions.

Appellant argued because he was tried absentia and without counsel, and because he was denied his due process rights on being heard on his lawfully filed motions his sentences should be vacated. That the circuit court's blatant violations of Appellant's rights negated Appellant's ability to have a fair hearing.

On February 5, 2021 this Honorable court issued an Order remanding this case back to circuit court for consideration of all outstanding motions, "motion for mistrial included." This Honorable court also mandated a status update by the state every thirty (30) days. Very importantly, this February 5, 2021 order did not extend the circuit court's

jurisdiction, nor did it abolish the term of court rule pursuant State v. Campbell, 376 S.C. 212, 656 S.E. 2d 371 (2008). See Amended Record On Appeal, (AROA) page 9.

On April 15, 2021 the hearing was held, Judge Ferrell Cothran Jr. from the Third Circuit presided. Senior Assistant Deputy Attorney General, William M. Blich Jr. was present, and Assistant Solicitor, Thomas Groom Terrell III argued for the state. Judge Cothran heard from both parties at length, carefully considered the facts, then issued final orders granting the mistrial and new trial. See AROA, pages 10 and 12. The term of court expired on April 16, 2021, and Judge Cothran adjourned the court sine die, and left the Fifteenth Circuit to return to his home circuit the Third Circuit.

This ordinarily would have ended Judge Cothran's involvement in the case, however, on April 23, 2021, eight (8) days after the term of court expired

Thomas Groom Terrell III acting in a collusion with William M. Blitch Jr. ^① sought to commit fraud upon the court is getting the court to change its final orders in granting a mistrial and new trial. In this highly suspect and unethical collusion Mr Terrell was instructed by Mr Blitch to fraudulently state to the court that the Appellant's Motion For Mistrial was filed subsequent to Appellant being sentenced. See ARDA, page 51.

As is evidenced by the September 16, 2020 sentencing transcript, (ARDA pages 294-299) Mr Terrell knew his statement to the court, that Appellant's Motion For Mistrial was filed subsequent to Appellant being sentenced, was a fraudulent fabrication, but he made it anyway in a malicious

^① Senior Assistant Deputy Attorney General William M. Blitch Jr. has since abruptly left the Attorney General's Office

effort to circumvent the term of court rule pursuant Campbell, and to be able to subject Appellant to double jeopardy.

Although Judge Cottraw legally had no authority or jurisdiction to change his final orders granting a mistrial and a new trial in a criminal matter after the term of court in which he entered them had expired, based on Mr Terrell's intentional fraudulent fabricated statement that Appellant's Motion For Mistrial was filed subsequent to him being sentenced, and thus a post-trial motion under Rule 29 SCR CrimP, Judge Cottraw erroneously assumed jurisdiction over Mr Terrell's Motion For Reconsideration based on Mr Terrell's fraudulent misrepresentation of fact, and on June 10, 2021 heard and granted Mr Terrell's Motion For Reconsideration. See Order of Reconsideration, AROA, page 15.

Not only was this a miscarriage of justice due to Mr Terrell's fraudulent

misrepresentations to the court, but prior to Judge Cothran erroneously considering Mr Terrell's Motion For Reconsideration, on May 4, 2021 Judge Cothran issued an Order that specifically vacated Appellant's sentences and instructed the South Carolina Department of Corrections to release Appellant. See AROA, page 14. Thus on June 10, 2021 when Judge Cothran reinstated Appellant's sentences without authority or jurisdiction based on Mr Terrell's false fraudulent fabrication, the Appellant was subjected to double jeopardy. Appellant strenuously objected and immediately gave notice of appeal again.

On appeal the Appellate Defender's office assigned Attorney, Taylor Billiam to Appellant's case. Appellant immediately contacted Mr Billiam in writing and by phone requesting Mr Billiam to raise the foregoing issue on appeal along with Appellant's right to counsel and misjoinder of indictments, Mr Billiam was very disrespectful to

Appellant, and unbeknownst to the Appellant, Mr. Gilliam was filing motions with the Clerk for the Court of Appeals fabricating pretextual reasonings for extensions of time to file Appellant's Initial Brief without providing the Appellant a copy of these Motions for Extension of Time.

When Appellant learned of Mr. Gilliam's devious actions Appellant immediately contacted this Honorable Court pro se, made known his concerns, and was granted permission to proceed pro se on appeal. Mr. Gilliam had delayed filing Appellant's Initial Brief for a year. In less than thirty (30) days after being granted permission to proceed pro se Appellant filed his Initial Brief on Appeal raising the issues that the Appellant had pleaded with Mr. Gilliam to raise for almost a year.

Thereafter, Mr. Bitch maliciously sought five (5) extensions of time to file the Respondent's Initial Brief

on Appeal, four (4) by motion, and one (1) by letter. Never once did Mr Blich ever allege what is an extraordinary circumstance as defined by Black's Law Dictionary in either motion for his extraordinary delay. He just abused his trust as a state official and maliciously delayed the proceedings so as to continue to expose Appellant to a wrongful conviction and double jeopardy.

Then after maliciously delaying an adjudication in this case, Mr Blich in his Initial and Final Brief concedes and admits Appellant's Motion For Mistrial and New Trial were not post-trial motions under Rule 29, SCR CrimP, see Initial and Final Brief of Respondent, page 12, at footnote 2.

Although Mr Blich argues in this footnote that Appellant's Motion For Mistrial and New Trial were somehow improper, he does not elaborate in any way how or why they are improper. He only makes an unsupported conclusory allegation the motions were improper.

Even though Mr Blitch admits in these Briefs that Appellant's Motion For Mistrial and New Trial were not post-trial motions under Rule 29, and admits both were granted, (See Initial and Final Briefs, page 12, paragraph 2) he conveniently omits why the term of court rule does not apply to the orders granting a mistrial and a new trial in a criminal matter.

Mr Blitch goes on to manifest his ignorance of the law when he argues the state was allowed to file a Rule 29, SCR Crim P, post-trial motion attacking a final order granting a mistrial and a new trial because it was not "inappropriate or successive." However, Rule 29, SCR Crim P plainly state its unambiguous legislative intent, "A timely post-trial motion must be filed within ten (10) days of the imposition of the sentence." Therefore, common sense dictates in order for a Rule 29 motion to be proper before the court a sentence

must have been imposed, and it must be filed within ten (10) days of the sentence being imposed. Mr. Blitch does not show the state met either of Rule 29 two simple prerequisites, only that the state's motion was not successive. The state's Rule 29 motion attacking final orders granting a mistrial and new trial, successive or not, were highly inappropriate because no sentence was imposed, and thus was contrary to the legislative intent.

Furthermore, Mr. Blitch does not supply a single case authority where where the state in a criminal trial is or was allowed to file a Rule 29 motion attacking a final order granting a mistrial after the term of court in which it was granted had expired. Such ignorance is simply unprecedented.

Thus, is the history of this case.

TRAVISTY OF JUSTICE

Further suspect in this case is that Appellant was tried in his complete absence, without counsel even though he was specifically appointed Martin Spratt to represent him or assist him the day before the trial began. See ARDA, pages 131-159 (Trial Transcript). Also suspect was why the trial court allowed the state to join multiple unrelated indictments for one trial based on pretextual false statements, i.e. the lead detective was the same in all three cases, and all three businesses were burglarized through air conditioning vents, when during the course of the trial it was manifested that these similarities in the cases were fabricated by Mr. Terrell.

Even more suspect is why the trial court after hearing evidence that contradicted the state's reasoning for joining the trials allowed the case to proceed to the jury, and actually instructed the jury to use all the evidence together in each

case to determine Appellant's guilt.

Not only were the proceedings fundamentally unfair, the evidence and the way it was obtained were suspect. For instance, the single piece of evidence in the Biff's Liquors burglary was a glove which contained multiple peoples DNA in it. No evidence was presented how it got there, only that it was found during the investigation, and that a DNA test was made. The State did present evidence that they found a similar glove in my place of residence, however, no DNA test was alleged to have been performed on the glove found in my residence. No tools used to commit a burglary were found in my residence or on my person, nor was any missing items found on me or my residence.

Although Officer Ammons would testify he found me with a "pocket full of change" He would also testify that as was normal procedure for

to determine Appellants guilt.

him to photograph everything he found on a suspect, and yet there was no picture of any charge. The Appellant could go on and on about the very little evidence that was presented during the trial, but what is more troubling is the plethora of exculpatory evidence that was kept from the jury that is manifested in the police reports submitted to this Honorable Court in his supplemental pleading for sanctions.

In summation, an unbiased mind could not help but see the gross travesty of justice in viewing the totality of circumstances in this case. The prosecutorial and judicial misconduct cumulated with any substantial the lack of any substantial evidence manifest a travesty of justice.

UNNECESSARY AND MALICIOUS
DELAYS

This appeal has been pending

since November 2020, from a trial that occurred in July of 2019, from crimes that occurred in 2016. An adjudication in this case is long overdue, since giving notice of appeal in November of 2020 the Appellant has with respectable due diligence sought a timely adjudication to this case. The Respondent on the other hand has maliciously sought to delay these proceedings, and to misrepresent the facts in an attempt to cloud this court's judgment and delay its findings. All the while Appellant is being subjected to double jeopardy based on fraudulent fabrications proffered to the court by the state that are plainly manifested in the AROA. Appellant respectfully asks that this Honorable Court take judicial notice of these undisputed facts and the travesty of justice intentionally procured by the Respondent and its agents, and to act to alleviate the Appellant

from his illegal incarceration and double jeopardy at its earliest possible convenience.

CONCLUSION

WHEREFORE: because this case is properly before this court, all briefs have been filed, and the record on appeal is complete, and because the Appellant has demonstrated quite clearly by the AROA that the State has already subjected him to double jeopardy through fraudulent statements to the court, Appellant prays this Honorable Court adjudicate this case and vacate his sentences.

Respectfully Submitted
This 1st day of September, 2023

Theodore Bolick

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610 Highway # 9 West
Besseville, S.C. 29512

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Theodore Jerry Bolick, Appellant

Proof of Service

I hereby certify that I placed
a copy of the foregoing Motion To
Expedite Adjudication in the U.S.
Mail, postage pre-paid addressed

Mark R. Farthing
P.O. Box 11549
Columbia, S.C. 29211-1549

This 1st day of September, 2023
Theodore J. Bolick
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